

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

BONITA STEWART,  
Plaintiff,

vs.

Case No. 05-1088-JTM

SALINA REGIONAL HEALTH CENTER  
and V.A. MEDICAL CENTER,  
Defendants.

MEMORANDUM AND ORDER

This is a pro se medical malpractice action brought by plaintiff Bonita Stewart raising claims for the treatment received by her late husband, Joseph Stewart. The matter is before the court on the Motion to Dismiss of defendant Salina Regional Health Center and the Motion to Dismiss or for Summary Judgment by V.A. Medical Center

Joseph Stewart died February 26, 2003. The present action was filed March 7, 2005, and Salina Regional Medical Center received service of process on March 11, 2005.

Salina Regional Medical Center seeks dismissal on the grounds that the action is untimely, since suit was brought more than two years after the cause of action arose. KSA 60-513(a)(5), (7). The V.A. Medical Center seeks dismissal on the grounds that Stewart has failed to file any administrative claim, thereby barring any civil action under 28 U.S.C. § 2675(a).

Both motions appear to be meritorious. Further, plaintiff Stewart has filed no timely response to either motion. Accordingly, both for good cause shown and pursuant to D.Kan.R. 7.4, the motions of the defendants are granted.

IT IS ACCORDINGLY ORDERED this 25<sup>th</sup> day of May, 2005, that the defendants' Motions to Dismiss (Dkt. Nos. 9, 11) are hereby granted.

s/ J. Thomas Marten  
J. THOMAS MARTEN, JUDGE